

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

# COPY

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **Apparatus and Method for Measuring an Induced Perturbation to Determine a Physiological Parameter**, the specification of which

(check one) ☒ is attached hereto.  
☐ was filed on \_\_\_\_\_ as  
 Application Serial No. \_\_\_\_\_  
 and was amended on \_\_\_\_\_  
 (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent Office all information known to me to be material to patentability as defined in 37 C.F.R. 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

(Application Serial No.)	(Filing Date)	(Status)
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I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose to the Patent Office all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>09/026 048</u>	<u>2/19/98</u>	<u>Pending</u>
(Application Serial No.)	(Filing Date)	(Status)
<u>08/561 928</u>	<u>11/22/95</u>	<u>Patented</u>
(Application Serial No.)	(Filing Date)	(Status)
<u>08/228 213</u>	<u>4/15/94</u>	<u>Patented</u>
(Application Serial No.)	(Filing Date)	(Status)
<u>08/561 923</u>	<u>11/22/95</u>	<u>Patented</u>
(Application Serial No.)	(Filing Date)	(Status)

# COPY

DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION

COPY

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Harold C. Hohbach, Reg. No. 17,757; Aldo J. Test, Reg. No. 18,048; Thomas O. Herbert, Reg. No. 18,612; Donald N. MacIntosh, Reg. No. 20,316; Edward S. Wright, Reg. No. 24,903; David J. Brezner, Reg. No. 24,774; Richard E. Backus, Reg. No. 22,701; James A. Sheridan, Reg. N. 25,435; Robert B. Chickering, Reg. No. 24,286; Richard F. Trecartin, Reg. No. 31,801; Steven F. Caserza, Reg. No. 29,780; Laura L. Kulhanjian, Reg. No. 33,257; Michael A. Kaufman, Reg. No. 32,988; Edward N. Bachand, Reg. No. 37,085; R. Michael Ananian, Reg. No. 35,050; Stephen M. Knauer, Reg. No. 38,208; Robin M. Silva, Reg. No. 38,304; David C. Ashby, Reg. No. 36,432; and Julian Caplan, Reg. No. 14,785; provided that if any one of said attorneys ceases being affiliated with the law firm of Flehr, Hohbach, Test, Albritton & Herbert as partner, employee or of counsel, such attorney's appointment as attorney and all powers derived therefrom shall terminate on the date such attorney ceases being so affiliated.

Direct all telephone calls to David C. Ashby at (650) 494-8700.

Address all correspondence to:

FLEHR HOHBACH TEST  
ALBRITTON & HERBERT LLP  
Suite 3400, Four Embarcadero Center  
San Francisco, California 94111

File No. A-59155-6/ATT/DCA

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first or sole

inventor, if any

Richard G. Caro

Inventor's signature:

Richard G. Caro

Date:

11/1/99

Residence:

461 Second Street, Apt. T659, San Francisco, CA 94107

Citizenship:

Australia

Post Office Address:

Same as above

Full name of second

inventor, if any

Mark H. Sher

Inventor's signature:

Mark H. Sher

Date:

11/1/99

Residence:

1770 Broadway Street, #505, San Francisco, CA 94109

Citizenship:

United States

Post Office Address:

Same as above

COPY

DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION

Page 2

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VITAL INSITE, INC.

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UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

FEBRUARY 12, 2000

PTAS

FLEHR HOHBACH TEST ET AL.  
DAVID C. ASHBY  
SUITE 3400  
FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111-4187



\*101201566A\*

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UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 11/01/1999

REEL/FRAME: 010373/0165  
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
CARO, RICHARD G.

DOC DATE: 11/01/1999

ASSIGNOR:  
SHER, MARK H.

DOC DATE: 11/01/1999

ASSIGNEE:  
VITAL INSITE, INCORPORATED  
830 DUBUQUE AVENUE  
SOUTH SAN FRANCISCO, CALIFORNIA

94080

SERIAL NUMBER: 09430928  
PATENT NUMBER:

FILING DATE: 11/01/1999  
ISSUE DATE:

COPY

MAYA BENNETT, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

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ASSIGNMENT

WHEREAS we, Richard G. Caro of San Francisco, California and Mark H. Sher of San Francisco, California have invented certain new and useful improvements in **APPARATUS AND METHOD FOR MEASURING AN INDUCED PERTURBATION TO DETERMINE A PHYSIOLOGICAL PARAMETER**, and having executed an application for United States patent disclosing and identifying the invention; and

Whereas, **VITAL INSITE, INCORPORATED**, a corporation of the State of California and having its principal place of business at 830 Dubuque Avenue, So. San Francisco, CA 94080 (hereinafter referred to as assignee) is desirous of acquiring the entire right, title, and interest in and to said invention, said application and the Letters Patent to be obtained therefore;

Now, therefore, in consideration of One Dollar and other good and valuable consideration, We assign to the Assignee and the Assignee's legal representatives, successors and assigns, the entire title in the invention, the patent application and any Letters Patent that may issue therefrom, both foreign and domestic; and We do hereby authorize and request the Commissioner of Patents and Trademarks to issue any Letters Patent to the Assignee under the terms of this assignment.

We hereby authorize the Assignee or its legal representative to insert in this instrument the filing date and serial number of the patent application or any other information that may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

In exchange for the named consideration, we convey to the Assignee the right to make application in its own behalf for protection of the invention in countries foreign to the United States and where expedient to claim under any International Convention or other international agreement for any such application the date of the United States application (or other application if any) in priority to other applications; and I do hereby covenant and agree with the Assignee that we will not execute any writing or do any act conflicting with this agreement, and that we will at any time upon request, without further or additional consideration, but at the expense of the Assignee, execute additional assignments and other writings and do additional acts as the Assignee may deem necessary or desirable to perfect the Assignee's enjoyment of this grant, and render all necessary assistance in making application for and obtaining original, divisional renewal, reissued or extended Letters Patent in the United States or in any and all foreign countries on the invention, and in enforcing any rights or chose in action accruing as a result of the patent applications or Letters Patent, by giving testimony in any proceeding or transaction involving the patent or Letters Patent, and by executing preliminary statements and other affidavits, it being understood that the foregoing covenant and agreement shall bind, and inure to the benefit of the assigns and legal representatives of both parties.

Date: 11/1/99 By: Richard G. Caro  
Richard G. Caro

Date: 11/1/99 By: Mark H. Sher  
Mark H. Sher

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MASIBP. A  
SCJ/JMG



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

NOVEMBER 09, 2000

PTAS

KNOBBE, MARTENS, OLSON & BEAR, LLP  
JOHN M. GROVER  
620 NEWPORT CENTER DRIVE  
SIXTEENTH FLOOR  
NEWPORT BEACH, CA 92660



\*101469718A\*

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UNITED STATES PATENT AND TRADEMARK OFFICE  
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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 09/12/2000

REEL/FRAME: 011088/0919  
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
VITAL INSITE, INC.

DOC DATE: 09/05/2000

ASSIGNEE:  
MASIMO CORPORATION  
2582 KELVIN AVENUE  
IRVINE, CALIFORNIA 92614

SERIAL NUMBER: 08672218  
PATENT NUMBER: 6027452

FILING DATE: 06/26/1996  
ISSUE DATE: 02/22/2000

JOANN STEWART, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

NO DATES DOCKETED  
ATTORNEY RESPONSIBLE  
INITIAL ASJ

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DEC-03-1999 11:53

VITAL INSITE, INC.

650 615 4884 P.08/14

PATENT  
Any Docket No. MASIMO.208GEN  
Page 1

### ASSIGNMENT

WHEREAS, Vital InSite Inc., a California corporation having offices at 830 Dubuque Ave., South San Francisco, California 94080 (hereinafter "ASSIGNOR"), represents and warrants that it is the sole owner of the entire right, title, and interest to certain new and useful improvements for which ASSIGNOR has filed the United States applications for Letters Patents in the United States (hereinafter "the Patent Applications") listed on Schedule A:

WHEREAS, Masimo Corporation, a Delaware corporation having offices at 2852 Kelvin, Irvine, CA 92614 (hereinafter "ASSIGNEE") desires to purchase the entire right, title, and interest in and to the inventions disclosed in the Patent Applications;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) to ASSIGNOR, and other good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby further acknowledges that it has sold, assigned, and transferred, and by these presents does hereby sell, assign, and transfer, unto ASSIGNEE, its successors, legal representatives, and assigns, the entire right, title, and interest throughout the world in, to, and under the said improvements, and the said Patent Applications and all Patents that may be granted thereon, and all divisions, continuations, reissues, reexaminations, renewals, and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent that may hereafter be filed for said improvements or for the said Patent Applications in any country or countries foreign to the United States; and ASSIGNOR hereby authorizes and requests the Commissioner of Patents of the United States, and any Official of any country foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements and all Letters Patents resulting from the Patent Applications to ASSIGNEE, its successors, legal representatives, and assigns, in accordance with the terms of this Agreement.

ASSIGNOR does hereby sell, assign, transfer, and convey to ASSIGNEE, its successors, legal representatives, and assigns all claims for damages and all remedies arising out of any violation of the rights assigned hereby that may have accrued prior to the date of assignment to ASSIGNEE, or may accrue hereafter, including, but not limited to, the right to sue for, collect, and retain damages for past infringements of the said issued Letters Patents;

ASSIGNOR hereby covenants and agrees that it will communicate to ASSIGNEE, its successors, legal representatives, and assigns any facts known to ASSIGNOR respecting the Patent Applications immediately upon becoming aware of those facts, and that it will testify in any legal proceeding involving any of the Patent Applications, will sign all lawful papers, execute all divisional, continuing, and reissue applications, make all rightful oaths, and will generally do everything possible to aid ASSIGNEE, its successors, legal representatives, and assigns to obtain and enforce the Patent Applications in all countries.

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DEC-03-1999 11:53

VITAL INSITE. INC.

650 615 4994 P.09/14

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 3<sup>rd</sup> day of December 1999

Vital InSite Inc.

By: Richard G. Caro

Name Printed: RICHARD G. CARO

Title: PRESIDENT & C.E.O.

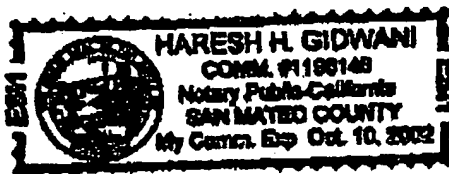
Date: 12/3/99

STATE OF CALIFORNIA  
COUNTY OF SAN MATEO - ss.

On 3<sup>rd</sup> December 1999, before me, HARESH H. GIDWANI, personally appeared Vital InSite Inc. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity(ies), and that by his/her signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



H. H. Gidwani  
Notary Signature

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DEC-03-1999 11:53

VITAL INSITE, INC.

650 615 4884 P.10/14

## SCHEDULE OF PATENT APPLICATIONS

TITLE	SERIAL NO.	FILING DATE	PATENT NO.	ISSUE DATE
Rapid Non-Invasive Blood Pressure Measuring Device	08/672,218	6/26/96		Allowed 9/9/99
CIP-5 of US 5,590,649 Apparatus and Method for Measuring an Induced Perturbation to Determine Blood Pressure	09/026,048	2/19/98		
CIP-6 of US 5,590,649 Apparatus and Method for Measuring an Induced Perturbation to Determine Blood Pressure	09/430,928	11/1/99		
Also all international filings that derive from any of the above.				

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U.S. PENDING PATENT APPLICATIONS

<u>SERIAL NO.</u>	<u>FILING DATE</u>	<u>DESCRIPTION</u>
08/672,218	6/26/96	RAPID NON-INVASIVE BLOOD PRESSURE MEASURING DEVICE
09/026,048	2/19/98	APPARATUS AND METHOD FOR MEASURING AN INDUCED PERTURBATION TO DETERMINE BLOOD PRESSURE
09/430,928	11/1/99	APPARATUS AND METHOD FOR MEASURING AN INDUCED PERTURBATION TO DETERMINE BLOOD PRESSURE

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

Applicant : Richard G. Caro, et al.  
App. No. : 09/430,928  
Filed : November 1, 1999  
For : SYSTEM AND METHOD OF  
DETERMINING WHETHER TO  
RECALIBRATE A BLOOD  
PRESSURE MONITOR  
Examiner : R. Nasser

Group Art Unit 3736

ESTABLISHMENT OF RIGHT OF ASSIGNEE TO TAKE ACTION  
AND  
REVOCATION AND POWER OF ATTORNEY

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

The undersigned is empowered to act on behalf of the assignee below (the "Assignee"). A true copy of the original Assignment of the present application from the Inventors to Vital Insite, Inc., recorded at Reel 010373, Frame 0165, is attached hereto. In addition, a true copy of the Assignment of the present application from Vital Insite to the Assignee, recorded at Reel 011088, Frame 0919, is also attached hereto. Therefore, the foregoing Assignments represent the entire chain of title of this invention from the Inventors to the Assignee.

I declare that all statements made herein are true, and that all statements made upon information and belief are believed to be true, and further, that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that willful, false statements may jeopardize the validity of the application, or any patent issuing thereon.

The undersigned hereby revokes any previous powers of attorney in the subject application, and hereby appoints the registrants of Knobbe, Martens, Olson & Bear, LLP,

COPY

**App. No.** : Richard G. Caro, et al.  
**Filed** : November 1, 1999

COPY

620 Newport Center Drive, Sixteenth Floor, Newport Beach, California 92660, Telephone (949) 760-0404, **Customer No. 20,995**, as its attorneys with full power of substitution and revocation to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith. This appointment is to be to the exclusion of the inventor(s) and his attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Please use **Customer No. 20,995** for all communications.

Masimo Corporation

Dated: 9-25-01

By: [Signature]  
Joe Kiani

Title: President and CEO

Address: 2582 Kelvin Avenue  
Irvine, California 92614

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1-31-92



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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

101201566

To the Honorable Assistant Commissioner for Patents and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Richard G. Caro and Mark H. Sher

Additional name(s) of conveying party(ies) attached? [ ] Yes [x] No

3. Nature of Conveyance:

[X] Assignment [ ] Merger  
[ ] Security Agreement [ ] Change of Name  
[ ] Other

Execution Date: November 1, 1999

2. Name and address of receiving party(ies):

Name: Vital Insite, Incorporated

Internal Address:

Street Address: 830 Dubuque Avenue

City: South San Francisco

Country USA Zip: California 94080

Additional name(s) & address(es) attached? [ ] Yes [x] No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: 11/1/99

A. Patent Application No. (s)

B. Patent No. (s)

Additional numbers attached? [ ] Yes [x] No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: David C. Ashby

Internal Address: FLEHR HOHBACH TEST  
ALBRITTON & HERBERT LLP

Street Address: SUITE 3400

FOUR EMBARCADERO CENTER

City: SAN FRANCISCO

State: CA Zip: 94111-4187

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 3.41): \$40.00

[x] Enclosed  
[x] Authorized to be charged to deposit account

8. Deposit account number: 06-1300

Please debit any underpayment or credit any overpayment to the above deposit account.

Our Order No. A-59155-6/AJT/DCA

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

David C. Ashby

Name of Person Signing

*David C. Ashby*  
Signature

November 1, 1999

Date

Total number of pages including cover sheet, attachments and document: [ 2 ]

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Assistant Commissioner for Patents and Trademarks, Box Assignments  
Washington, DC 20231

File No. A-59155-6/AJT/DCA

Rev. 8/93 (142770)

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9-25-2000

COVER SHEET  
ONLY

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TO THE ASSISTANT COM

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: attached original documents or copy thereof.

COPY

1. Name of conveying party(ies): (If multiple assignors, list numerically)

Vital InSite, Inc.

Additional name(s) of conveying party(ies) attached?

() Yes (X) No

2. Name and address of receiving party(ies):

Name: MASIMO CORPORATION

Internal Address:

Street Address: 2582 Kelvin Avenue

City: Irvine State: CA ZIP: 92614

Additional name(s) of receiving party(ies) attached?

() Yes (X) No

3. Nature of conveyance:

(X) Assignment  
( ) Merger  
( ) Security Agreement  
( ) Change of Name  
( ) Other:

4. Application numbers or Patent numbers:

See attached list (1)

08672218

Execution Date: (If multiple assignors, list execution dates in numerical order corresponding to numbers indicated in 1 above)

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: John M. Grover  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
Customer No. 20,995

Internal Address: Sixteenth Floor

Street Address: 620 Newport Center Drive

City: Newport Beach State: CA ZIP: 92660

Attorney's Docket No(s): MASIBP.001GEN

7. Total fee (37 CFR 3.41): \$90.00

(X) Enclosed

(X) Authorized to be charged to deposit account if any additional fees are required, or to credit any overpayment

6. Total number of applications and patents involved:

3 applications

8. Deposit account number: 11-1410

Please charge this account for any additional fees which may be required, or credit any overpayment to this account.

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct, and any attached copy is a true copy of the original document.

John M. Grover

Name of Person Signing

  
SignatureSeptember 6, 2000  
Date42,610

Registration No.

Total number of pages including cover sheet, attachments and document: 5

Mail documents to be recorded with required cover sheet information to:

09/25/2000 NTHA11 00000001 111410 08672218  
01 FC:581 30.00 CH 90.00 OP

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Washington, D.C. 20231

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